

SECTION 2

Guidelines for Developing a Collection Plan





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GUIDELINES FOR DEVELOPING A COLLECTION PLAN

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A comprehensive collection effort should include a review of the following items:

2.1 Administration

- 2.1.1** Which courts are covered by the plan, address whether this collection plan will be coordinated with other courts in the county, and if so, how it will be coordinated.
- 2.1.2** Administrative structure for collection, i.e. assignment and coordination of staff, including an organizational chart for court and collection staff, and establishing supervisory authority over the administration of the collection plan. Staff assignments could include:
 - 1. Cashier
 - 2. Collections officer or compliance officer position
 - 3. Probation officer
 - 4. Other court positions
 - 5. Combination position with other courts in funding unit
 - 6. Supervisory staff
- 2.1.3** Collection efforts currently in use outside the court, but within the county or funding unit's jurisdiction, with a description of how and to what extent the court's efforts will interact or be coordinated with these outside efforts. Components of external collection efforts could include:
 - 1. Prosecutor or city attorney notification
 - 2. Private collection agency
 - 3. Michigan Department of Treasury (debt referral) [MCL 12.131]
 - 4. County Clerk (Circuit Court) involvement
 - 5. Law enforcement service of warrants
 - 6. Funding unit collections officer
- 2.1.4** The development of policies and procedures for periodic review of collection efforts. This could include an annual review of the overall plan, updating:



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1. Organizational chart
2. Staff assignments
3. Collection techniques
4. Implementation goals
5. Success of collection efforts since initial plan implementation
6. Elimination of barriers, or new barriers to collection

2.1.5 Systems issues, including acquisition of software, additional hardware for existing system, or collections software enhancements.

2.1.6 The process litigants follow when subject to a court order involving them in collection procedures and may include a flow chart showing movement of litigants through the collection process.

2.1.7 The feasibility of alternative collection aids. Components reviewed could include:

1. Written Policy
2. Publicized campaign
3. Hand-outs at Court on Collection/Payment Policy
4. Notices/Signs in courthouse
5. Lock-Box collections
6. Door-hanger notice of warrant
7. Overweight Vehicle impoundment [MCL 257.724]

2.2 Records Management

2.2.1 The development of policies and procedures for internal review of existing accounts with outstanding balances. Components of this review could address:



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1. Accuracy of existing account balances
2. Correction of inaccurate balances
3. Additional action on dormant accounts
4. Ability of automated system to adjust debts based upon
 - a. Jail in lieu of payment
 - b. Community service in lieu of payment
 - c. Waiver
 - d. Probation discharge
5. Causes of nonpayment
 - a. In jail/prison
 - b. Payor's economic condition
 - c. Economics in community
 - d. Inability to locate payor
 - e. Competition between multiple agencies for payor's dollar
 - f. Lack of coordination through collection process
 - g. Lack of specific payment plan
 - h. Expectation of no sanctions for non-payment

2.2.2 The development of policies and procedures for ongoing account monitoring. This could include:

1. Frequency of account review
2. Use of automated reports showing open accounts
3. Tickler or computer tracking for billing statements

2.2.3 The development of policies and procedures for sharing account and payor information between the court and other agencies, including but not limited to probation offices, collection offices, etc. Information may be shared for purposes of enforcement and locating the payor. Information could include:

1. Current address
2. Employment status
3. Social Security number
4. Incarceration status



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- 2.2.4** The method by which the court's assessment and collection methods will be maintained, i.e. case management data base, spreadsheet, other computerized format, or manual receipt process. This may include articulating the criteria staff will use to identify accounts requiring collection action.
- 2.2.5** Available court statistical data with comparable data from other courts, comparing both internal performance from previous years and external performance against other courts. Components of this review could include:
1. Percent of total due paid within specified period; 1 year, 2 years, etc.
 2. Total amount or percentage still due after 7 years
 3. Local court results with trends from JIS data for identification of potential problem areas (currently applies to district courts only)
 4. Regular comparison of court's collection rate against previous period's rate (at least annually)
 5. Trends in non-payment considering offense type, offender type, local or state economics, and other factors affecting collections at the local level

2.3 Assessment Issues

- 2.3.1** The development of policies and procedures and identify responsible parties for determining ability to pay, as prescribed by statute, court rule, or local policy. Components of this review could include:
1. Pre-sentence investigation
 2. Defendant income and assets
 3. Determination of responsible parties; parent, guardian, legal custodian, respondent/defendant
 4. Impact of reimbursement on family for juvenile matters
 5. Economics in community
- 2.3.2** The development of a uniform procedure by which payors are advised of their payment obligations.



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- 2.3.3** The development of a policy requiring all court orders containing assessments to include a specific amount due, or formula by which an amount due may be calculated, and date(s) after which all or a portion of the amount due will be considered overdue.

2.4 Payment Issues

- 2.4.1** The development of policies and procedures for expectation of payment, including acceptable methods of payment, sanctions for failure to pay as ordered, and incentives to encourage prompt payment. Components of this review could include:

1. Publication of court's policy
2. Requirement of payment at sentencing or immediate commitment to jail pending payment
3. Early probation discharge upon meeting all requirements
4. Sanctions for failure to pay
 - a. Incarceration
 - b. Community Service
 - c. Day-report
 - d. Tether or other electronic monitoring
 - e. Intensive probation
 - f. Other means
5. Alternative methods of incarceration to encourage payment
 - a. Weekends
 - b. Work-release

- 2.4.2** The development of policies and procedures for processing in-person and mail payments, including systems security issues, use of mail logs, and desired processing time from receipt of payment to posting to the account.

- 2.4.3** The development of policies and procedures for identification of and action on uncollectible accounts. The policy may define what may qualify as uncollectible, when an account or portion of an account would be considered uncollectible, and under what circumstances an uncollectible account may be reactivated. Components could include:

1. Review based upon total due
2. Age of debt



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3. Type of debt
4. Agency responsible for collection
5. Process by which an account previously considered uncollectible is reactivated

2.4.4 The development of policies and procedures for action on outstanding accounts deemed collectible. This may include establishing graduated penalties for nonpayment. The plan may define at what point an account is overdue. Components could include:

1. NSF policy & NSF fee [MCR 8.106]
2. Collection efforts (not all items listed are applicable to all case types)
 - a. Overdue noticing [MCL 257.321a, 257.748]
 - b. Probation Revocation [MCL 771.3, MCR 6.445]
 - c. Show Cause, Bench Warrant, or Civil Contempt [MCL 257.908, 600.8729, 600.8829]
 - d. Criminal Contempt [MCL 600.1701, MCR 6.106]
 - e. FAC/FCJ suspensions [MCL 257.321a]
 - f. Garnishment [MCL 600.4011]
 - g. Execution [MCL 600.6001, 600.4815]
 - h. Attachment [MCL 600.4001]
 - i. Income withholding, wage assignment [MCL 771.3]
 - j. Referral to Prosecutor [MCL 600.8733, MCR 3.605]
 - k. Lien against property [MCL 600.8731]
3. Selection of various collection efforts to be implemented and sequence of court actions

2.4.5 The use of alternative payment methods and related staff costs to monitor or process alternative payment methods, such as:

1. Credit cards
2. Wage assignment
3. Handling payments over/under amount due (See Section 3, “Best Practices”)

2.4.6 Partial payments, including establishing a minimum amount due at sentencing, and payments over or under the amount due. Related staff costs to monitor or process partial payments may be addressed, such as:



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1. Establish minimum amount due at sentencing
 - a. Percent of total
 - b. Specific type of fee, fine, or cost due at specified time
2. Establish payment cycle
 - a. Minimum payment on pre-established cycle
 - b. No minimum, total due by pre-established date

2.5 Training

2.5.1 Local training to be provided to staff, including cross-training on both general and specific collection requirements, and establish a time line for implementation of training.

2.5.2 Staff responsible for coordinating or providing training.

2.6 Implementation Barriers

2.6.1 Existing barriers to implementation of specific portions of the plan. Barriers could include:

1. Internal staff support based upon
 - a. Priority established by judges
 - b. Uniform application of process
 - c. Consistent application of sanctions
2. Sufficient staffing
3. Focus of law enforcement
4. Computerization
 - a. Acquisition for manual courts
 - b. System issues: other software interactive with case management system; compatibility with other state agencies, etc.
5. Training issues
6. Local economic situation
7. Jail overcrowding
8. Lack of information about defendants



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9. Statutory issues (specify)

- 2.6.2** A schedule for elimination of barriers where possible. For example, the elimination of a staffing barrier might include creating a collections officer or compliance officer position and obtaining the funding for the position.

2.7 Michigan Collection Efforts

For further information on these programs, contact the local trial courts.

2.7.1 1992 Michigan pilot fee & fine collection efforts

1. C9 (Kalamazoo County) - Reimbursement Officer
2. C30 (Ingham County) - Collection of court-appointed attorney fees
3. C33 (Emmet and Charlevoix Counties) - Enhanced noticing
4. D12 (Jackson County) - Collection officer
5. D17 (Redford Township) - Warrant notice
6. D18 (City of Westland) - Time to pay
7. D43 (City of Ferndale) - Private collection agency

2.7.2 Additional collection efforts

1. Judicial Information Systems (JIS) Software - Batch Show Cause notices
2. D87 (Gaylord), D56-2 (Charlotte) - Late notice letters
3. D1 (Monroe), D63 and C17 (Kent County) - Private collection agency
4. D8 (Kalamazoo County) - Court owned collections system; software designed to interact with JIS District Court module.
5. D64-A (Ionia County) - Voluntary Wage Assignment
6. D16 (City of Livonia) - Probation Collection process; software designed to interact with JIS District Court module.



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7. D75 (Midland County) - Show Cause noticing.
8. St. Joseph County - centralized payment noticing for selected Circuit, District and Probate court receivables
9. Oakland County Reimbursement Program - centralized payment processing for Circuit and Probate court receivables
10. D36 (Detroit), D14A (Ann Arbor), D5 (St. Joseph), D54A (Lansing) - Department of Treasury Debt Collection program

2.8. Guidelines for the Department of Treasury's Debt Referral Program

- 2.8.1** The Department of Treasury will retain up to 20% of fees collected. In order for courts to prevent loss of revenue the 20% late fee was created by statute. It requires that the defendant be informed in writing that the 20% penalty will be assessed after 56 days. The following forms should be modified to include the language "Fines, costs and fees not paid within 56 days of the date owed are subject to a 20% late penalty on the amount owed":

Judgment of Sentence (MC 219)
Judgment, Traffic/Civil Infraction (CIA 02)
Order of Probation (CC 243a/DC 243)

- 2.8.2** Courts should conduct an analysis of accounts receivable to determine the amount of criminal and civil infraction receivables eligible for Treasury collection. Treasury requires that accounts transmitted to them be a minimum of \$50.00. This amount can be comprised of a single debit of \$50.00 or more, or an account consisting of several debts that total \$50.00 or more. Every account submitted must be delinquent at least 180 days.

To determine the most effective use of the Treasury program, it may be helpful to have an idea of the payment patterns of cases which would be submitted to the program. For instance, if a large percentage of one type of case is paid within a year after the due date without additional intervention, it may not be economical to submit these cases until they have reached that age. This is also a good time to review the court's general collections procedures to determine if there are any additional efforts that the court could use to collect revenues prior to submission to Treasury, or terminate collection practices that are not effective.

After this analysis courts can better gauge the number of eligible cases and amounts that may be submitted to Treasury and the costs to be expended by the court and data processing personnel.



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- 2.8.3** Courts interested in turning over delinquent accounts to the Department of Treasury for collection under 1993 PA's 316 and 317 should contact Kevin Olson at Treasury, (517) 373-6546, to schedule a technical meeting to present the Court/Star Interface package to court representatives and systems support personnel and other local interested parties.

At the technical meeting the court will need to provide the following information:

1. Number of delinquent cases involved,
2. Total dollar amounts of delinquent accounts, (which will be transmitted to Treasury)
3. Systems platform,
4. Automation status of the court, and
5. Date the court would be ready to transmit cases to Treasury.

- 2.8.4** Review record lay-out and data requirements for Treasury tapes/FTP (debt referral and skip tracing) to determine if all of the required information is available on the court record. Example of data elements that are required include:

- Defendant's name
- Case number
- Offense description
- Most current address
- Driver license number
- Social Security number (if available)
- Date of birth
- Judgment date
- Judgment amount now due

- 2.8.5** Review staffing impact. Depending on the volume of cases submitted to Treasury and the frequency of their submission, participation in the program will impact court staffing resources. (Treasury prefers daily submission via FTP.) Consideration should be given to the impact that increased collections will have on clerical staff who will be responsible for responding to calls from clients and taking payments. Sending a large number of overdue accounts will create an initial response from clients that can overwhelm staff and phone lines when the program is first initiated.

Testing and correcting data prior to submission will also create additional burdens on staff that should be taken into account. Regular discussions will need to be held with system providers or data processing staff concerning the general technical requirements of the program. You



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should be confident that your system will be capable of adapting to the Treasury program and be able to provide the necessary data in the proper format via magnetic tape or FTP prior to signing an agreement.

- 2.8.6** Obtain approval from the funding unit. In order to participate in the program it is necessary for the court, its funding unit, and the Department of Treasury to sign an agreement which outlines the general requirements of the program and responsibilities of the parties. This will generally be done by resolution adopted by the court's funding unit. A model agreement is attached.

- 2.8.7** Prepare files and develop special procedures prior to participation. Once the court has identified eligible categories of cases and determined that staffing and technical support are adequate to participate in the program, there can be a considerable amount of work involved in preparing cases for submission. Trial runs should be made to determine if new programs are working properly. Test data should be checked to ensure that all data elements are included, that formats are correct, and that only eligible cases are being submitted. This may require staff to verify print-outs of test cases against case files to ensure that all eligible cases are being included and that ineligible records are not included.

Concurrent with this effort, those individuals responsible for handling customer inquiries, payments, and bookkeeping associated with the process should meet to determine what changes need to be made to automated and manual procedures.

- 2.8.8** The Treasury Collection program poses several unique challenges in terms of the collection and transmittal of overdue accounts. Once cases are submitted to Treasury the court will need to be able to identify them so that Treasury is notified when payments are made at the court. In some instances both the court and Treasury will collect from the client, requiring the court to reimburse for overpayment. Since Treasury accepts checks, it is also possible that an NSF adjustment may occur. This may require some courts to adopt special procedures.

Treasury will report collections received to the court on a daily basis, however the actual monies from the collections, minus the service fee, will not be sent to the court until month-end. Consequently, the court will need to decide how to handle recording payment to Treasury, license reinstatements and warrant recalls while payments are "in-transit" from Treasury.

In addition, regular reports must be made to Treasury showing collections made by the court on accounts that have been submitted to Treasury. Treasury will assess their service fee to these accounts as well.

For accounts submitted to Treasury that do not include the 20% late penalty, in order for the court to enter a judgment as paid in full, a process for accounting for the portion of the judgment reserved by Treasury for the service fee will need to be developed. Also, courts



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which are unable to accept partial payments will need to be able to do so in some fashion as Treasury will collect and transmit to the court any amount available towards the unpaid judgment.

- 2.8.9** Once the court is satisfied that programs are running correctly, policies and procedures are in place, the agreement is signed, and staff trained, Treasury may require additional testing of files submitted to and from the court prior to actual implementation. Contact persons in both agencies should be identified and be available when the project starts.

Before any account can be turned over to the Department of Treasury for collection the court must provide notice to the defendant that if they fail to pay, the account will be submitted to Treasury for collection. These notices should be mailed at least 30 days prior to submission of the file. Courts can expect to see an increase in client contacts immediately following the mailing of notices. Suggested notice language is:

FINAL NOTICE

Our records show you have unpaid fines and costs as shown on the front of this card. Unless the amount due is paid within 30 days of this notice date, the court will turn your account over to the Michigan Department of Treasury for collection through the Michigan Automated Collection System. The Department of Treasury is authorized to collect your overdue payment by intercepting any Michigan Income Tax refund that you may otherwise receive and/or garnish your wages, bank accounts, commissions, or other financial assets.